

IN THE SUPREME COURT OF THE STATE OF MONTANA
Case No. DA-09-0578

HERMAN GONZALES; FAWN LYONS; KEN LAUDATO; LAWRENCE WALKER; GARY MANSIKKA; GARY GALETTI; GREG WHITING; MARVIN KRONE; RICHARD BLACK; JIM KELLY; CHRIS SOUSLEY, and all others similarly situated,

Plaintiffs and Appellees,

v.

MONTANA POWER COMPANY; NORTHWESTERN CORPORATION, a Delaware Corporation; PUTMAN AND ASSOCIATES, INC., a Montana corporation; NORTHWESTERN ENERGY; NORTHWESTERN CORPORATION d/b/a NORTHWESTERN CORPORATION as a reorganized debtor, subsequent to its plan confirmation, herein after referred to as NORTH and JOHN DOES II and III and JOHN DOES IV thru XX,

Defendants and Appellant.

DEC 08 2009

Ed Smith

CLERK OF THE SUPREME COURT
STATE OF MONTANA

**DEFENDANT NORTHWESTERN CORPORATION AS A REORGANIZED
DEBTOR'S MOTION FOR EXTENSION TO FILE OPENING BRIEF**

Oliver H. Goe
Chad R. Vanisko
Chad E. Adams
BROWNING, KALECZYC,
BERRY & HOVEN, P.C.
P.O. Box 1697
Helena, MT 59624-1697
Telephone: (406) 443-6820
Facsimile: (406) 443-6895

*Attorneys for Defendant and
Appellant NorthWestern Corporation
as Reorganized Debtor*

Jason S. Ritchie
Jeanne Matthews Bender
HOLLAND & HART, LLP
401 N. 31st St., Suite 1500
P.O. Box 639
Billings, MT 59103-0639
Telephone: (406) 252-2166
Facsimile: (406) 252-1669

*Attorneys for Putman & Assoc.,
Inc.*

Joe Seifert
KELLER, REYNOLDS, DRAKE,
JOHNSON & GILLESPIE, P.C.
50 S. Last Chance Gulch
P.O. Box 598
Helena, MT 59624
Telephone: (406) 442-0230
Facsimile: (406) 449-2256

*Attorneys for Montana Power
Company*

Lon J. Dale
Giovanna McLaughlin
MILODRAGOVICH, DALE,
STEINBRENNER & NYGREN,
P.C.
P.O. Box 4947
Missoula, MT 59826-4949
Telephone: (406) 728-1455
Facsimile: (406) 549-7077

*Attorneys for Plaintiffs and
Appellees*

Chris J. Ragar
RAGAR LAW OFFICE
2050 W. Dickerson, Ste. B
Bozeman, MT 59718
Telephone: (406) 585-8891

*Attorney for Plaintiffs and
Appellees*

NorthWestern Corporation, as a reorganized debtor, subsequent to its bankruptcy plan confirmation, and also referred to in this matter as “NOR,” the Appellant above-named, hereby moves this Court pursuant to Mont. R. App. P. 26(1) for a thirty day extension of time in which to file NOR’s opening brief in this appeal.

Absent an extension of time, NOR’s opening brief would be due on December 31, 2009. With the requested extension, NOR’s opening brief will be due on February 1, 2010. Counsel for NOR has contacted opposing counsel, Lon

Dale, as required by Mont. R. App. P. 16(1). Mr. Dale has indicated that he will oppose NOR's requested extension. Counsel for Defendant/Appellant Putman & Associates, Inc. indicated he has no objection to the requested extension, and stated that he likewise intends to file for a similar extension of time.

Counsel for NOR does not seek an extension for any dilatory purpose, but rather due to the approaching holiday season and the press of other business matters, the extension is required to allow adequate time to brief the class certification issues raised on appeal. Plaintiffs/Appellees objection to the professional courtesy of an extension to file an opening brief comes as somewhat of a surprise. The record plainly shows Plaintiffs/Appellees waited approximately 10 years since filing their complaint to seek class certification from the district court, and now object to an additional 30 days in order to accommodate holiday travel schedules and press of other business including NOR's and other parties' significant preparation for the appellate mediation in this matter. The appellate mediation is scheduled to take place January 6, 2010. Plaintiffs/ Appellees' objection is not well taken.

Rule 26(1) provides that, in all cases other than those addressed in Rule 26(2), "a party may move for and be granted one 30-day extension of time in which to file a brief required or allowed to be filed under these rules." NOR

respectfully requests this Court grant its motion for such an extension. A proposed order has been filed herewith.

Dated this 8th day of December, 2009.

BROWNING, KALECZYC, BERRY & HOVEN,
P.C.

By


Chad E. Adams

CERTIFICATE OF MAILING

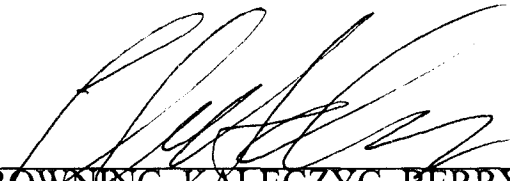
I hereby certify that on the 8th day of December, 2009, I mailed a true and correct copy of the above and fore going **MOTION FOR EXTENSION TO FILE OPENING BRIEF**, by the United States Postal Services, postage prepaid, addressed to the following counsel of record:

Chris J. Ragar
RAGAR LAW OFFICE
2050 W. Dickerson, Ste. B
Bozeman, MT 59718

Lon J. Dale
Giovanna McLaughlin
MILODRAGOVICH, DALE, STEINBRENNER & NYGREN, P.C.
P.O. Box 4947
Missoula, MT 59806-4947

Jeanne M. Bender
Jason S. Ritchie
HOLLAND & HART
P.O. Box 639
Billings, MT 59103-0639

Joe Seifert
KELLER, REYNOLDS, DRAKE, JOHNSON & GILLESPIE, P.C.
50 S. Last Chance Gulch
P.O. Box 598
Helena, MT 59624



BROWNING, KALECZYC, BERRY & HOVEN,
P.C.